

REMARKS

Claims 1-17 are all the claims pending in the application.

Amendments to the Specification

With this Amendment, Applicant amends a typographical error in the paragraph beginning on page 7 at line 10. No new matter is added.

Claim Rejections - 35 USC § 102

Claims 1, 3, 12, 15 stand rejected under 35 U.S.C. 102(e) as allegedly anticipated by Ichihara U.S. Patent No. 6,553,018 ("Ichihara"). Applicant respectfully traverses this rejection.

Ichihara is generally directed to a method and apparatus for adjusting variable gain in a mobile CDMA terminal. (Abstract, col. 8, ln. 1 to col. 12, ln. 35, first embodiment). As illustrated in Figure 1, the mobile terminal receives data streams from signal source 4A and from signal source 4B and also received transmissions from a base station 2 through an antenna 11 and a receiver 12. Ichihara describes that the levels of signals IA and QA are adjusted at variable gain circuit 16A and the levels of signals IB and QB are adjusted at variable gain circuit 16B. Further, the level of the modulated analog signal output from modulator 20 is adjusted at variable gain circuit 22. (Figure 1, col. 8, ln. 57 to col. 9, ln. 29). Variable gain circuits 16A, 16B, and 22 are controlled by control signals A, B, and C transmitted from the level control computing circuit 23 to the variable gain circuits 16A, 16B, and 22, respectively. (Figure 1, col. 10, ln. 6-17). When the base station 2 receives the signals of each code channel from the mobile terminal 1, it determines whether the reception level is proper (or too high or too low) for each channel and transmits a TPCA signal and a TPCB signal to the mobile terminal as transmission power control signals for controlling the transmission power of the A and B channel signals from the mobile terminal. (Figure 1, col. 10, ln. 6-17). The TPCA and TPCB signals are received at the receiver

11 and transmitted to the level control computing circuit 23. The level control computing circuit 23 then controls the variable gain circuits 16A, 16B, and 22 based on the TPCA and TPCB signals.

Applicant submits that Ichihara fails to disclose or suggest at least a transmitter having circuitry for determining a time-average power of a digital amplitude signal and circuitry for scaling the same digital amplitude signal according to a first scale factor and scaling an analog signal which has been converted from the same digital amplitude signal according to a second scale factor, where the first and second scale factors are according to the determined time-average power, as recited in Claims 1, 12, and 15.

First, Ichihara fails to disclose or suggest a single transmitter which has circuitry for *both* determining a time-average power of a digital amplitude signal *and* circuitry for scaling the digital signal and an analog signal converted from the digital signal according to the determined time-average power. As describes in Ichihara, reception power is measured and compared at a base station and the digital A and B signals and the analog signal from the modulator 20 are modified at the mobile station. There is no disclosure or suggestion in Ichihara of performing *both* determining a time-average power *and* scaling a digital signal and an analog signal converted from the digital signal in a single transmitter.

Second, Ichihara fails to disclose or suggest determining a time-average power of a digital signal and scaling the *same* digital signal according to the determination. On the contrary, according to Ichihara, the base station determines the reception level of signals transmitted from the mobile station and the variable gain circuits adjust the levels of the signals from signal sources 4A and 4B.

Therefore, in view of at least the above, Applicant submits that Ichihara fails to anticipate independent Claims 1, 12, and 15, and that Claim 3 is patentable at least by virtue of its dependence on Claim 1 (and alternately on Claim 2, which depends from Claim 1). Applicant respectfully requests that the rejection of Claims 1, 3, 12, and 15 over Ichihara be reconsidered and withdrawn.

Claim Rejections - 35 USC § 103

Claims 2, 6, 7, 8, 11 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Ichihara, in view of Sato, U.S. Patent No. 5, 751,705 (“Sato”). Claims 4, 5, 9, 13, 16 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Ichihara, in view of Kakubo et al., JP-03-044115 (“Kakubo”).

Regarding Claim 10, the Examiner indicates that “claim 10 inherits all limitations of claims 5 and 7 above.” (Office Action, p. 6). Applicant therefore assumes that Claim 10 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ichihara, in view of Kakubo (used in the rejection of Claim 5) and Sato (used in the rejection of Claim 7). Regarding Claim 14, the Examiner indicates that “claim 14 inherits all limitations of claims 5, 10, and 12.” (Office Action, p. 6). Applicant therefore assumes that Claim 14 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ichihara, in view of Kakubo and Sato, as discussed above with respect to Claim 10. Regarding Claim 17, the Examiner indicates that “claim 17 inherits all limitations of claims 5 and 15 above.” (Office Action, p. 6). Applicant therefore assumes that Claim 17 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ichihara, in view of Kakubo (used in the rejection of Claim 5). Applicant respectfully requests that if the

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Examiner intended different rejections for Claims 10, 14, and 17 than those described herein, that the Examiner issue a new, non-final Office Action explaining those new rejections.

Regarding the various rejections of Claims 2, 4-11, 16, and 17 under 35 U.S.C. § 103(a), Applicant submits that the filing date of the present application (May 31, 2000) predates the issue date of Ichihara (April 22, 2003). Thus, Ichihara, at best, would only be available as prior art 35 U.S.C. § 103 based on 35 U.S.C. § 102(e). Under 35 U.S.C. § 103(c), Applicants may make a showing of common ownership to overcome a rejection under § 103(a), if the reference is only available as a reference under § 102(e), (f) or (g).

The undersigned hereby represents that Ichihara and the claimed invention of the present application were, at the time the invention of the present application was made, owned or subject to an obligation of assignment to NEC Corporation.

In view of the above, it is respectfully submitted that Ichihara is not available as prior art under 35 U.S.C. § 103, and it is requested that the rejections of Claims 2, 4-11, 16, and 17 based on Ichihara be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.


The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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